



The Commonwealth of Massachusetts

Office of the Commissioner of Banks

One South Station

Boston, Massachusetts 02110

JANE SWIFT
GOVERNOR

THOMAS J. CURRY
COMMISSIONER

June 1, 2001

Linda Rogers, Vice President
Seamen's Bank
221 Commercial Street
Provincetown, Massachusetts 02657

Dear Ms. Rogers:

This letter is in response to your correspondence dated April 19, 2001 on behalf of Seamen's Bank (the "Bank"), Provincetown, Massachusetts to the Division of Banks (the "Division") in which you request an opinion relative to whether a state-chartered bank may charge a customer who is sixty-five years of age or older or eighteen years of age or younger a fee for withdrawing funds from a savings account in the form of a money order.

In your letter you state that the Division conducted a compliance examination on Seamen's Bank on March 8, 2001 in which it found the Bank to be assessing a fee against "18-65" customers for money orders. In the examination report, the Division directed the Bank to amend its procedures to allow "18-65" customers to receive money orders on these accounts free of charge. The Audit Committee of the Bank requested that you obtain an opinion on that issue of whether by changing the title of the draft from "money order" to "personal draft", would the Bank be allowed to charge a fee to "18-65" customers.

It is the Bank's view that providing free money orders to "18-65" customers on a savings account is essentially providing a free checking account. The Division reviewed Massachusetts General Laws chapter 167D, section 2 which states, in part, "... provided, however, that no bank shall impose any fee, charge or assessment against the savings account or checking account of any persons sixty-five years of age or older or eighteen years of age or younger." The Division also reviewed its Regulatory Bulletin 3.3-101. Said Bulletin provides that, in general, only fees for optional services, separate from the general features of the account may be charged. It specifically provides in Question 3 to section 3 of paragraph II that withdrawals in the form of a certified check, bank check, or money order must be provided without a fee since such withdrawals are "normally anticipated transactions which occur for the basis operation of such accounts".



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Therefore, it is the position of the Division that changing the title of a withdrawal vehicle from "money order" to "personal draft" would not allow the Bank to charge a fee.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph A. Leonard, Jr.", written in dark ink.

Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

JAL/NTT/mhc
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